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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,311	02/15/2001	Lawrence D. Hartsook	23712-05099	7055
758 7590 04/02/2009 FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041				
EXAMINER DARNO, PATRICK A				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/788,311

**Applicant(s)**

HARTSOOK ET AL.

**Examiner**

PATRICK A. DARNO

**Art Unit**

2169

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11, 12, 14, 17, 19-22, 24-27 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12, 14, 17, 19-22, 24-27 and 29-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/15/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 31-33 are new. Claims 10, 13, 15, 16, 18, 23, and 28 are canceled. Claims 14, 17, 22, and 24 are amended. Claims 1-9, 11, 12, 14, 17, 19-22, 24-27, and 29-33 are pending in this office action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9, 11-12, and 17-30 are rejected under 35 U.S.C. 102(e) as being anticipated U.S. Patent Application Publication Number 2007/0016909 issued to Taylor S. Gautier (hereinafter "Gautier").

**Claim 1:**

Gautier discloses a computer implemented method dynamically rendering data in a markup language (*Gautier: paragraph [0028] and paragraph [0031], lines 7-9 and paragraph [0032], lines 2-10 and paragraph [0010], lines 13-17 and paragraph [0017], lines 5-8 and claim 2*), the method comprising:

identifying a symbol in the data in the markup language (*Gautier: paragraph [0046], lines 1-6 and paragraph [0029], lines 1-5 and Fig. 3a; Note that the "OPT" symbol is identified in the data in the markup language.*), the symbol indicating a query of a data set (*Gautier: paragraph [0030], lines 14-17 and paragraph [0009], lines 4-8; Note that the data within the OPT tags is "variable data selected from the database 100 in response to a query."*), the query containing one or more variables, each variable of one of a

plurality of data types (*Gautier: paragraph [0030], lines 14-22 and Fig. 3a; Note that the query appears to have included variables for at least retrieving turning instructions (Turn Left, L), distance information (.2 miles or .2 m), and time information (.9 minutes or .9m).;*

augmenting the markup language to support the variables (*Gautier: paragraph [0009], lines 1-4*), by building a variable resolution functionality into the markup language, each variable resolving to two or more variable values (*Gautier: paragraph [0029], lines 1-6 and paragraph [0009], lines 1-4 and Fig. 3a*);

accessing the data set in order to generate a resolution to the query, wherein the one or more variables contained in the query are resolved as part of the generation of the resolution to the query (*Gautier: paragraph [0032], lines 2-10 and paragraph [0017]*), the query associated with a tag in the markup language (*Gautier: paragraph [0030], lines 14-17*);

substituting the two or more variable values for each variable into query to generate two or more completed queries (*Gautier: Fig. 3a and paragraph [0030], lines 14-22; Note that the variables "Turn Left" & "L" and "minutes" and "min" are returned to complete the two queries issued to fill the "OPT" tags.); and*

dynamically rendering the resolution to the two or more completed queries as a part of the markup language (*Gautier: paragraph [0009] and paragraph [0029] and paragraph [0010], lines 13-17 and Fig. 3a*), according to at least one rule associated with the markup language wherein said symbol can be used to dynamically render multiple data sets (*Gautier: paragraph [0012], lines 1-4 and paragraph [0032]*).

**Claim 2:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier further discloses wherein the symbol comprises a delimited token (*Gautier: paragraph [0013] and paragraph [0029]*).

**Claim 3:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier further discloses wherein the symbol is located within the data in the markup language such that the query is associated with the markup language (*Gautier: paragraph [0029] and paragraph [0030], lines 14-22 and paragraph [0032] and Fig. 3a*).

**Claim 4:**

Gautier discloses all the elements of claim 3, as noted above, and Gautier further discloses wherein the markup language comprises Hyper Text Markup Language (*Gautier: paragraph [0028]*).

**Claim 5:**

Gautier discloses all the elements of claim 3, as noted above, and Gautier further discloses rendering the resolution according to at least one rule associated with the markup language tag with which the query is associated (*Gautier: paragraph [0012], lines 1-4 and paragraph [0032]*).

**Claim 6:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier further discloses wherein the dataset comprises a set of at least one document in a hierarchically structured format (*Gautier: paragraph [0028] and Fig. 3a*).

**Claim 7:**

Gautier discloses all the elements of claim 6, as noted above, and Gautier further discloses wherein the hierarchically structured format comprises Extensible Markup Language (*Gautier: paragraph [0028] and Fig. 3a*).

**Claim 8:**

Gautier discloses all the elements of claim 7, as noted above, and Gautier further discloses wherein the symbol conforms an Extensible Markup Language standard concerning queries (*Gautier: paragraphs [0028]-[0029] and paragraph [0030], lines 14-22*).

**Claim 9:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier further discloses wherein the data set comprises a database (*Gautier: paragraph [0030], lines 14-22 and Fig. 3a*).

**Claim 11:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier further discloses wherein the rendering is performed by software running on a hand held computing device (*Gautier: Fig. 1, element 106 and paragraph [0031] and claim 2*).

**Claim 12:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier further discloses generating a resolution to the query by retrieving a node set from a set of documents in Extensible Markup Language; and rendering each member of the node set (*Gautier: Figs. 3a, 3b, and 3c*).

**Claim 17:**

Gautier discloses all the elements of claim 1 as noted above, and Gautier further discloses wherein rendering the resolution further comprises:

receiving an input from user (*Gautier: paragraph [0030], lines 14-22*);

responsive to receiving the input, updating the data set based at least in part on the received input (*Gautier: paragraph [0030], lines 14-22; The data sets within the OPT tags are updated in response to the query of the database.*).

**Claim 18:**

Gautier discloses all the elements of claim 17, as noted above, and Gautier further discloses wherein updating the data set further comprises writing to a set of at least one document in Extensible Markup Language (*Gautier: paragraph [0030], lines 14-22 and Fig. 3a; The query retrieves the variables to fill the OPT tags and then the variables are written into the OPT tags as shown in Fig. 3a.*).

**Claim 19:**

Claim 19 is rejected under the same reasons set forth in the rejection of claim 1.

**Claim 20:**

Claim 20 is rejected under the same reasons set forth in the rejection of claim 5.

**Claim 21:**

Claim 21 is rejected under the same reasons set forth in the rejection of claim 12.

**Claim 22:**

Claim 22 is rejected under the same reasons set forth in the rejection of claim 17.

**Claim 23:**

Claim 23 is rejected under the same reasons set forth in the rejection of claim 18.

**Claim 24:**

Claim 24 is rejected under the same reasons set forth in the rejection of claim 1.

**Claim 25:**

Claim 25 is rejected under the same reasons set forth in the rejection of claim 5.

**Claim 26:**

Claim 26 is rejected under the same reasons set forth in the rejection of claim 12.

**Claim 27:**

Claim 27 is rejected under the same reasons set forth in the rejection of claim 17.

**Claim 28:**

Claim 28 is rejected under the same reasons set forth in the rejection of claim 18.

**Claim 29:**

Gautier discloses all the elements of claim 3, as noted above, and Gautier further discloses wherein the markup language comprises Wireless Markup Language (*Gautier: paragraphs [0028] and [0031]; The invention discloses markup languages for use on a wireless portable device. Surely this would comprise a wireless markup language.*).

**Claim 30:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier wherein augmenting the markup language to support the variables further comprises:

providing a variable table for storing names and values of the variables, each variable of one of the plurality of data types (*Gautier: Fig. 3c; This figure appears to show at least a two column table storing variable data. The variables that are stored in this table are listed in the OPT tags in Fig. 3a.*); and



utilizing a syntax in the markup language for creating the variables by adding the variables to the variable table (*Gautier: Fig. 3a and Fig. 3c; The mark-up language syntax disclosed in Fig. 3a is used to generate the table of Fig. 3c.*)

**Claim 31:**

Gautier discloses all the elements of claim 1, as noted above, and Gautier further discloses wherein each completed query comprises a node and the at least one rule is associated with a tag describing cells of a rendered table and directs rendering of each node belonging to each completed query as a cell of the rendered table [Gautier: paragraphs [0012], [0018], [0032], [0033], and [0046]].

**Claim 32:**

Claim 32 is rejected under the same reasons set forth in the rejection of claim 31.

**Claim 33:**

Claim 32 is rejected under the same reasons set forth in the rejection of claim 31.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gautier, and further in view of U.S. Patent Application Publication Number 2002/0198874 issued to Roger I. Nasr et al. (hereinafter "Nasr").

**Claim 14:**

Gautier discloses all the elements of claim 1 as noted above, but Gautier does not explicitly disclose wherein each variable contained in the query comprises a delimited token.

However, Nasr discloses wherein each variable contained in the query comprises a delimited token (*Nasr: paragraphs [0100] - [0104]; <MYDOC> appears to be a delimiting token in the query shown.*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Gautier with the teachings of Nasr noted above. The skilled artisan would have been motivated to improve the teachings of Gautier per the above in order to allow a Web site user to have control of the content through their queries (*Nasr: paragraph [0107]*).

***Response to Arguments***

**Argument #1:**

**Applicant Argues:**

First, Gautier does not teach the limitation of "the query containing one or more variables, each variable of one of one of a plurality of data types." Examiner cites to Gautier paragraph [0031], lines 14-22, and Fig. 3a as teaching the above limitation.

The Examiner mentions that "the query appears to have included variables..." Embodiments of query are possible that select the content from the database without requiring any variables in the definitions.

**Examiner Responds:**

Examiner is not persuaded. It appears that the Applicant and the Examiner simply disagree. Gautier clearly discloses wherein the query includes variables for at least retrieving turning instructions (Turn Left, L), distance information (.2 miles or .2m), and time information (.9minutes or .9m).). As a result, it is clear that Gautier discloses a "query containing one or

more variables, each variable having one of one of a plurality of data types" [Gautier: paragraph [0030], lines 14-22 and Fig. 3a].

Furthermore, just because "Embodiments of the query are possible that select the content from the database without requiring variables" exist, does not mean that no embodiments exists wherein the query selects content from the database while containing a variable. The Examiner has already shown that such an embodiment exists [Gautier: paragraph [0030], lines 14-22 and Fig. 3a].

Since it appears that each and every element of the Applicant's claimed invention is either disclosed or suggested by the prior art of record, the claims remain rejected under the reasons set forth in the preceding office action.

**Argument #2:**

**Applicant Argues:**

Second, Gautier does not disclose the limitation of "augmenting the markup language to support the variables by building a variable resolution functionality into the markup language." Examiner cites Gautier paragraph [0009], lines 1-4 as disclosing the above limitation. The cited portion discloses augmenting the markup language with a special purpose tag, for example, the OPT tag. Even if the OPT tag is considered a variable reflecting a value based on the optimization constraints, nowhere does Gautier disclose the use of the value associated with the OPT tag in resolving the query.

**Examiner Responds:**

Examiner is not persuaded. Again, it appears that the Applicant and the Examiner simply disagree. However, Gautier is clear on this issue. Gautier discloses an invention which "augments existing markup languages with a new tag that may be optionally included in the content to be delivered". The purpose of this augmentation of the markup language is to build variable resolution functionality into the markup language [Gautier: paragraph [0029]]. By

utilizing the <OPT> tag. Gautier's invention resolves a variable to a final value wherein each variable could resolve to one of two or more variable values. The Examiner asserts that such functionality appears to be directly in line with the claim language. Each variable could be attributed to one of two or more variable values. And the variable resolution functionality, built into the markup language determines the outcome [Gautier: paragraph [0029] and paragraph [0030] and paragraph [0032]].

Since it appears that each and every element of the Applicant's claimed invention is either disclosed or suggested by the prior art of record, the claims remain rejected under the reasons set forth in the preceding office action.

**Argument #3:**

**Applicant Argues:**

In addition, the optimization constraint in Gautier always resolves to a single value as described in Gautier paragraph [0018], whereas the claimed limitation discloses "each variable resolving to two or more variable values." the ability to resolve a variable into multiple values is beneficially used in applications as described in the specification pages 11-12. Hence, the tag that demarcates a group of one or more content items is not equivalent to the variable contained in the query that resolves to two or more variable values. Furthermore, since, Gautier does not disclose any variable resolving to two or more values, Gautier also does not disclose the limitation of "substituting the two or more variable values for each variable into the query to generate two or more completed queries."

**Examiner Responds:**

Examiner is not persuaded. The Examiner's interpretation of "each variable resolving to two or more variables" does not appear to be the same as the Applicant's interpretation above. For example, the distance information variable of Gautier resolves to two or more variables, either .2 miles or .2m. And the variable resolution determines which one [Gautier: paragraph [0030]]. This simple example shows how the Examiner has interpreted the Applicant's claimed invention. And, this interpretation appears to be consistent with the invention as a whole.

Since it appears that each and every element of the Applicant's claimed invention is either disclosed or suggested by the prior art of record, the claims remain rejected under the reasons set forth in the preceding office action.

**Argument #4:**

**Applicant Argues:**

Although Gautier discloses in paragraph [0030], lines 14-22, the data sets within the OPT tags being updated in response to the query of the database, Gautier does not disclose updating the data set in response to receiving input from the user. Amended claims 22 and 27 recite limitations similar to claim 17 and hence are not anticipated by Gautier at least for the same reasons.

**Examiner Responds:**

Examiner is not persuaded. Newly amended claim 17 recites wherein the updating the data **"based at least in part"** on receipt of user input. The Examiner sees no inconsistency with this claim limitation, and the cited prior art. Even Applicant admits to "data sets within the OPT tags being updated in response to the query of the database." Well, that statement, summarizing Gautier: paragraph [0030], lines 14-22, appears to clearly show updating a data set, **at least in part**, on the received input.

Since it appears that each and every element of the Applicant's claimed invention is either disclosed or suggested by the prior art of record, the claims remain rejected under the reasons set forth in the preceding office action.

**Argument #5:**

**Applicant Argues:**

Several examples of tokens bounded by delimiters are presented in the specification where the delimiters are "\$(" and ")," for example, "\${file://CandleCatalog.xml/Items/Item/Desc}" disclosed in the specification on page 12 line 1. Nasr discloses in paragraphs [0100]-[0104] examples of query expressions containing a delimiter tag

<MYDOC>. The query examples presented happen to show a delimiter tag but do not disclose a token bounded by delimiters. Hence, Nasr does not disclose a query comprising a token that is bounded by delimiters.

**Examiner Responds:**

Examiner is not persuaded. Nasr appears to clearly disclose a delimiting token with the <MYDOC> tag [Nasr: paragraphs [0100]-[0104]]. The <MYDOC>, as indicated in the office action is the delimiting token, not the "\${" and "}" symbols.

Since it appears that each and every element of the Applicant's claimed invention is either disclosed or suggested by the prior art of record, the claims remain rejected under the reasons set forth in the preceding office action.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK A. DARNO whose telephone number is (571)272-0788. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ali can be reached on (571) 272-4105. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick A. Darno/  
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